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FISCAL IMPACT STATEMENT

LS 6089

BILL NUMBER: HB 1019

NOTE PREPARED: Feb 23, 2007

BILL AMENDED: Feb 23, 2007

SUBJECT: Interference with Custody.

FIRST AUTHOR: Rep. Duncan

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that a person who commits interference with custody must intend to deprive another person of custody rights. The bill eliminates the condition that, for an individual to commit the offense of interference with custody by failing to return a child to Indiana, the individual must have taken the child outside Indiana. The bill also eliminates the condition under which an individual who takes or detains a child with intent to deprive another of custody or parenting time does not commit the offense of interference with custody unless the individual conceals the child. It provides that an individual who conceals a child with the intent to deprive another of custody or parenting time commits interference with custody even if the individual did not take or detain the child. It also provides a defense if the accused person: (1) was threatened; or (2) reasonably believed the child was threatened.

Effective Date: July 1, 2007.

Explanation of State Expenditures: Under the bill, the number of persons convicted of interference with custody could increase resulting in possible increases in expenditures and revenues for the state and counties. Actual increases would be dependent on the number of convictions, lengths of sentence, and fines assessed. However, between FY 1996 and FY 2004, there were no commitments under this offense.

Background Information: Under current law, a person who knowingly or intentionally: (a) removes another person who is less than 18 years of age to a place outside Indiana and violates a child custody order of a court, or (b) removes another person who is less than 18 years of age to a place outside Indiana and violates a child custody order of a court and fails to return the other person to Indiana commits interference with custody, a Class D felony. The offense is a C felony if the person is less than 14 years of age. It is a Class B felony if the offense is committed while armed with a deadly weapon or results in serious bodily injury

to another person.

This bill would modify current statute and expand the offense of interference with custody. As proposed, interference with custody would include a person knowingly or intentionally violating a child custody order of a court by either removing or failing to return a person who is less than 18 years of age to Indiana.

Currently, a person who with the intent to deprive another person of custody or parenting time rights: (a) knowingly or intentionally takes and conceals, or (b) knowingly or intentionally detains and conceals, a person who is less than 18 years of age commits interference with custody, commits a Class C misdemeanor. Furthermore, the offense is a Class B misdemeanor if the offense is in violation of a court order. The bill modifies this language and deletes the requirement of concealment in offenses listed under both (a) and (b), above. It also adds the following language, (c) "knowingly or intentionally conceals" a person who is less than 18 years of age commits interference with custody.

Under the bill, the number of persons convicted of interference with custody could increase resulting in possible increases in expenditures and revenue for the state and counties (see *Penalty Provision* sections). Actual increases would be dependent on the number of convictions, length of sentences, and fines assessed.

Penalty Provision: A Class B felony is punishable by a prison term ranging from 6 to 20 years depending upon mitigating and aggravating circumstances. The average length of stay in Department of Correction (DOC) facilities for all Class B felony offenders is approximately 3.7 years.

A Class C felony is punishable by a prison term ranging from 2 to 8 years depending upon mitigating and aggravating circumstances. The average length of stay in a Department of Correction (DOC) facility for all Class C felony offenders is approximately 2 years.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average length of stay in a DOC facility for all Class D felony offenders is approximately ten months.

Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a: Class B, C, or D felony is \$10,000; Class B misdemeanor is \$1,000, and Class C misdemeanor is \$500. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. A Class C misdemeanor is punishable by up to 60 days, a Class B misdemeanor is punishable by up to 180 days; in jail. Any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Department of Correction.

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